

**NOTICE OF INTENT**

**Department of Children and Family Services**

**Child Welfare**

**State Central Registry  
(LAC 67:V.1103)**

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V, Subpart 3, Child Protective Services, Chapter 11, Section 1103 State Central Registry.

Section 1103 is being amended in accordance with 42 USC 15601, et seq and 28 CFR 115.6. Amendments to this section will provide for the disclosure of State Central Registry information as required by the Federal Prison Rape Elimination Act (PREA) on justified/valid sexual abuse findings to the Office of Juvenile Justice, upon request, when a prospective or current employee of a juvenile facility is listed as a perpetrator; include disclosure of justified/valid findings on the State Central Registry for prospective volunteers and service providers; and update current department and program titles.

**Title 67**

**SOCIAL SERVICES**

**Part V. Department of Children and Family Services, Child Welfare**

**Subpart 3. Child Protective Services**

**Chapter 11. Administration and Authority**

**§1103. State Central Registry**

A. The Department of ~~Social Services, Office of Community Services~~ Children and Family Services, establishes and will maintain a state central registry (SCR) of all reported cases of child abuse and neglect. The purpose of the SCR is to compile information of past reports of child abuse or neglect thus enabling child ~~protection investigation~~ protective services staff to conduct a more complete evaluation of current reports

of suspected abuse or neglect of children which may include a pattern of incidents. All records of reports of child abuse or neglect are confidential in accordance with R.S. 46:56.

B. The Louisiana Children's Code Article 616, requires the maintenance of a SCR of all reported cases. This includes records of investigations with justified/valid findings; unjustified/invalid findings in accordance with Children's Code Article 615 E(1); and, inconclusive findings for evaluating Court Appointed Special Advocates (CASA) volunteers in accordance with Children's Code Article 616 F. As part of the investigation, the ~~Office of Community Services~~ Department of Children and Family Services child ~~protection investigation~~ protective services staff shall provide to caretakers written notice of the SCR and the rules governing maintenance and expungement of SCR records.

1. - 6. ...

7. Any person whose name is included on the SCR with a justified/valid determination may file a rule to show cause against the Department of ~~Social Services~~ Children and Family Services in the court exercising juvenile jurisdiction in the parish in which the investigation was conducted to show why the information on file should not be expunged. The ~~Office of Community Services~~ Department of Children and Family Services will expunge the petitioner's name and other identifying information upon receipt of a court order to do so. Any expungement order issued by a court shall not take effect as to non-identifying statistical information on file until the three-year record retention period required by federal law for audit purposes has expired, counting from the month and year of the determination. During the three-year record retention period, such records bearing the non-identifying statistical information shall be sealed and accessible only to the financial auditors.

C. The ~~Office of Community~~ Department of Children and Family Services is authorized to release information maintained on the SCR in limited circumstances. This information will be released according to the following provisions.

1. The ~~Office of Community~~ Department of Children and Family Services will disclose information maintained on the SCR regarding cases of child abuse or neglect to other states' child welfare agencies upon formal inquiry by that agency, when the inquiry is made pursuant to an ongoing child ~~protection~~ protective services investigation, child protection alternative response, foster care home study, adoptive home study, or family services case following a child ~~protection~~ protective services investigation in the requesting state, in accordance with R.S. 46:56(F)(4)(a). This information may also be released to private licensed child placing agencies located in Louisiana and in other states upon formal inquiry and verification of licensure. Information released to such agencies is confidential and shall not be released to sources outside the agency.

2. The ~~Office of Community~~ Department of Children and Family Services will conduct a search of the SCR for foster, adoptive and other home studies for the purpose of placement of children who are in the custody of the department or receiving services from the ~~Office of Community Services~~ department.

3. The ~~Office of Community~~ Department of Children and Family Services will disclose limited information on a SCR records check when requested by an employer or prospective employer of a person who will be exercising supervisory authority over that employer's minor children or other dependent person as part of that person's direct employment and supervision as a caregiver by the parent or person with the dependent. The written request for the information will be a signed and notarized request form that must be signed by the

employee and employer. The form will be provided upon request from the employer, prospective employer, employee, or prospective employee. The information that will be disclosed will include whether or not a record of a justified/valid finding of abuse or neglect was found which identifies the employee or prospective employee as a perpetrator. The information will be disclosed to the employer or prospective employer.

4. The ~~Office of Community~~ Department of Children and Family Services will disclose information in records of reports of child abuse or neglect when requested in writing from persons cited in R.S. 46:56(F)(10)(a). The information to be disclosed is limited to whether or not the department has a report that is currently open and under investigation or has been determined to be justified/valid, the status of the investigation, the determination made by the department and any action taken by the department. Action taken by the department will include the following: case under investigation, case closed, referred for services, continued services post investigation, and child taken into custody.

5. The ~~Office of Community~~ Department of Children and Family Services will disclose information regarding justified/valid reports in foster homes, ~~day care~~ early learning centers, restrictive care facilities and registered family child day care homes to the agency or sponsoring agency responsible for the licensure or registration of the facility.

6. The ~~Office of Community~~ Department of Children and Family Services will disclose information regarding justified/valid reports when requested pursuant to R.S. 46:56(F)(1) and Children's Code Article 616 C. with a written request from a judge of a court exercising juvenile jurisdiction for a CASA applicant, with the applicant's written consent.

7. ~~The Office of Community~~ Department of Children and Family Services will provide SCR records checks for independent adoptions in accordance with the Louisiana Children's Code.

8. ~~The Office of Community~~ Department of Children and Family Services will disclose information regarding justified/valid reports when requested pursuant to R.S. 46:51.2(A) for potential or current employees of the Department of ~~Social~~ Children and Family Services when that individual's name is listed on the SCR as a perpetrator. If the individual requests a risk assessment evaluation, this information will also be disclosed to the Risk Evaluation Panel. Information disclosed shall be limited to those names recorded on the SCR subsequent to January 1, 2010.

9. The Department of Children and Family services will disclose information regarding justified/valid findings when requested as part of the application process of a prospective DCFS volunteer or service provider. Information disclosed shall be limited to those names recorded on the SCR subsequent to January 1, 2010. The disclosures for prospective volunteers and service providers are limited to the following individuals:

a. an individual who will be providing services for a child currently in the department's custody through a mentoring or tutoring program established by a Memorandum of Understanding with the department;

b. an individual who has personally entered into an agreement with the department for the provision of transportation services for a child currently in its custody;

c. an individual who has agreed to serve as a monitor of a safety plan developed by the department for the

protection of a child's health and safety while remaining in his home.

10. The Department of Children and Family Services will disclose information on justified/valid sexual abuse findings in accordance with 42 USC 15601, et seq and 28 CFR 115.6 for prospective and current juvenile facility employees of the Office of Juvenile Justice upon receipt of a written request.

911. The ~~Office of Community~~ Department of Children and Family Services will disclose information on justified/valid findings in accordance with R.S. 46:1414.1. This information will be released according to the following provisions.

a. The ~~Office of Community~~ Department of Children and Family Services will disclose information on justified/valid findings involving any owner, operator, current or prospective employee or volunteer of a ~~child-care~~ specialized provider or juvenile detention facility licensed by the Department of ~~Social~~ Children and Family Services or early learning center licensed by the Louisiana Department of Education when requested in writing by law enforcement to prosecute under R.S. 46:1441.1.

b. The ~~Office of Community~~ Department of Children and Family Services will disclose information on justified/valid findings involving any owner, operator, volunteer, current or prospective employee of a ~~child-care~~ specialized provider or juvenile detention facility licensed by the Department of ~~Social~~ Children and Family Services when requested in writing by the department's ~~Child Care and Residential Licensing and Regulatory Sections~~ Child Welfare Licensing Section when they have reasonable suspicion or are provided facts that indicate reasonable suspicion the individual's name is currently maintained on the SCR as a

perpetrator. Reasonable suspicion is defined as licensing having or acquiring information containing specific and articulable facts that indicate that an owner, operator, current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor in an investigation with a justified/valid finding currently recorded on the SCR. Upon receipt of the SCR clearance information that the individual is currently listed as a perpetrator, the appropriate child care or residential licensing and regulatory personnel shall immediately report the false information on the disclosure form and the SCR listing to the local district attorney.

c. If the owner, operator, current or prospective employee or volunteer of a ~~child care~~ specialized provider or juvenile detention facility licensed by the Department of ~~Social~~ Children and Family Services or an early learning center licensed by the Louisiana Department of Education discloses, or it becomes known, that their name is listed on the SCR as a perpetrator and requests a risk assessment evaluation, the ~~Office of Community~~ Department of Children and Family Services will disclose the information on the SCR to the Risk Evaluation Panel.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Title VI, Child in Need of Care, Chapter 5, Articles 615 and 616, and Title XII, Adoption of Children, Chapter 2, Article 1173, R.S. 14:403(H), R.S. 46:51.2(A) R.S 46:56, ~~and~~ R.S. 46:1414.1, 42 USC 15601, et seq and 28 CFR 115.6.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:198 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997), LR 26:790 (April 2000), LR 31:1609 (July

2005), LR 36:838 (April 2010), amended by the Department of Children and Family Services, LR 42:

#### **FAMILY IMPACT STATEMENT**

1. What effect will this rule have on the stability of the family? The proposed rule may have a positive effect on the stability of the family as it provides for the disclosure of information on individuals with justified/valid findings of abuse or neglect who are applicants to be an employee in a juvenile facility, a DCFS employee or volunteer, and supports the protection of children from individuals with a history of abuse or neglect.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The rule may have a positive effect on the functioning of the family by assuring a process for the disclosure of information on prospective volunteers and service providers for DCFS.

4. What effect will this have on family earnings and family budget? The proposed rule should not have an effect on family earnings and family budget. Individuals determined to pose a risk to children may be affected by loss of employment involving contact with children until they find other employment.

5. What effect will this have on the behavior and personal responsibility of children? The rule should not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, Louisiana law



prescribes this as a department function and only DCFS has access to the SCR.

#### **Poverty Impact Statement**

The proposed rulemaking is not anticipated to have an impact on poverty as defined by R.S. 49:973.

#### **Small Business Impact Statement**

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

All interested persons may submit written comments through April 27, 2016, to Rhenda Hodnett, Deputy Secretary of Programs, Department of Children and Family Services, P.O. Box 3776, Baton Rouge, LA 70821.

#### **Public Hearing**

A public hearing on the proposed rule will be held on April 27, 2016, at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA, beginning at 9 a. m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit or Division of Administrative at least seven working days in advance of the hearing. For assistance, call (225)342-4120 (Voice and TDD).

Marketa Garner Walters  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

Person Preparing Statement:	<u>Linda Carter</u>	Department:	<u>Department of Children and Family Services</u>
Phone:	<u>(225) 342-1554</u>	Office:	<u>Child Welfare</u>
Return Address:	<u>627 North 4<sup>th</sup> Street</u> <u>Third Floor</u> <u>Baton Rouge, LA 70821</u>	Rule Title:	<u>State Central Registry</u>
		Date Rule Takes Effect:	<u>July 1, 2016</u>

**SUMMARY**

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

**I. Estimated Implementation Costs (Savings) to State or Local Governmental Units (Summary)**

In accordance with 42 USC 15601, et seq and 28 CFR 115.6, this rule proposes to amend LAC 67:V, Subpart 3 Child Protective Services, Chapter 11, Section 1103 State Central Registry. Amendments to this section will provide for the disclosure of State Central Registry information as required by the Federal Prison Rape Elimination Act (PREA). Under PREA, the Office of Juvenile Justice may request information from the State Central Registry on justified/valid sexual abuse findings when a prospective or current employee of a juvenile facility is listed as a perpetrator as well as for prospective volunteers and service providers. Also, the proposed rule updates current department and program titles.

The only cost associated with this proposed rule is the cost of publishing rulemaking, which is estimated to be approximately \$1,917 (Federal) in FY 15-16. This is a one-time cost that is routinely included in the department's operating budget.

**II. Estimated Effect on Revenue Collections of State or Local Governmental Units (Summary)**

Implementation of this proposed rule will have no effect on revenue collections of state or local revenue collections.

**III. Estimated Costs and/or Economic Benefits to Directly Affected Persons or Non-Governmental Groups (Summary)**

Implementation of this proposed rule will have no cost or economic benefit to directly affected persons or nongovernmental groups.

**IV. Estimated Impact on Competition and Employment (Summary)**

The proposed rule is not expected to have an effect on competition or employment unless a person is determined to have a valid/justified sexual abuse finding on the State Central Registry. To the extent a person has a finding, they are prevented from working in occupations that provide direct care to children.

\_\_\_\_\_  
Signature of Agency Head  
or Designee

\_\_\_\_\_  
Date

\_\_\_\_\_  
LEGISLATIVE FISCAL OFFICER  
OR DESIGNEE

Rhenda Hodnett, Deputy Secretary  
Typed Name and Title of Agency Head

\_\_\_\_\_  
DATE OF SIGNATURE

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DCFS Deputy Undersecretary